

### **REMARKS**

The application contains claims 1-27 and 66-67. In view of the following remarks, Applicants respectfully request allowance of the application.

### **THE CLAIMS DEFINE STATUTORY SUBJECT MATTER**

Claims 1-13 and 58-65 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. The Office Action does not explain the basis of the rejections other than to state that the methods recited by these claims can be "done by the papers." This is not the proper legal standard. A claim is statutory under § 101 if it recites subject matter that accomplishes a practical application – it must produce a useful, concrete and tangible result. MPEP § 2106 (citing the State Street Bank decision from the Federal Circuit). Here, the inventions recited in independent claims 1, 58 and 62 clearly satisfy this requirement.

Consider claim 1, which recites among other things:

generating index information using the received user archiving input;  
storing the index information in association with the identified digital media item;  
repeating the reception of archiving input data, the generation of the index information and the storing of the index information for a plurality of digital media items;  
receiving retrieval input data representing a selection of a default or zero or more group event types from the predetermined plurality of group event types for the group, a selection of a default or zero or more persons in the group, and a selection of a time period; and  
using the selections and the identified group to retrieve and output digital media items that match the selection.

These claim elements recite a process through which index information is created for stored digital media items and, later, the index information is searched based on retrieval input data. This is a useful process because it permits operators to search through large data sets and gain quick access to relevant digital media items. Clearly, claim 1 recites statutory subject matter.

Claim 58 recites elements directed to generation and storage of index information. Again, this claim is statutory. This method generates index information for digital media items and, thus, makes it possible for an operator to search through the index information and

retrieve digital media items. The index information is itself a useful data structure because it provides a data set that can be searched later.

Claim 62 recites elements directed to queries presented to an operator, to generation of index information related to the operator's response and retrieving stored media items corresponding to the index information. Claim 62, of course, refers to a computerized search process. Again, computerized searches are useful because they provide quick, automated search capability across very large data sets.

These claims recite subject matter that clearly provides real world practical application. These claims refer to the incremental processes that permit operators to build and then search large data sets of stored digital media items. As noted, when considered under an appropriate legal standard, these claims clearly recite statutory subject matter.

### **THE CLAIMS ARE ALLOWABLE OVER THE PRIOR ART**

All claims stand rejected as obvious over Shneiderman, et al., *Direct Annotation: A Drag-and-Drop Strategy for Labeling Photos* (July 2000) and secondary art. Specifically, claims 1-27 are considered obvious over Shneiderman and Mizoguchi (EPO 0 678 816) and claims 58-65 are considered obvious over Shneiderman and Astle (U.S.P. 5,485,611). Applicants respectfully request withdrawal of the outstanding rejections because the prior art, even if considered collectively, does not teach or suggest all elements of the pending claims.

### **Claims 1-27 Define over Shneiderman and Mizoguchi.**

The cited prior art does not teach or suggest the episodic memory retrieval techniques of the pending claims. Consider claim 1, which reads in part:

1. (Previously Amended) A method of archiving and retrieving digital media items, comprising

receiving a user input identifying a group of users to which an archiving user belongs;

receiving archiving input data identifying: a digital media item to be archived for the group, the user's selection of zero or more group event types ***from a predetermined plurality of group event types specific to the***

**group**, the user's selection of zero or more **persons in the group**, and the user's selection of a time period;

Thus, an operator first identifies a group of users to which an archiving user belongs and then receives archiving input data – the group event types and persons in the group – which are dictated by the group itself. None of the prior art teaches or suggests this subject matter.

The Office Action supports the rejection by arguing that Shneiderman's teaches a log on process and Mizoguchi discloses person, place and other data input processes. Applicants respectfully disagree – The prior art does not teach this subject matter. First, Shneiderman does not disclose any log on process. He certainly does not disclose a log on process in which user is identified as a member of any particular group. Shneiderman permits operators to enter new names as freestyle text and, for convenience, includes a window with previously stored names provided alphabetically in a drag-and-drop source window, with the most commonly used names provided at the top:

The selection list is shown as being an alphabetically organized scrolling menu, but it could be implemented as a split menu. This would entail having 3-5 of the most commonly occurring names in a box, followed by the alphabetical presentation **of the full list**. Thus the most frequent names would be always visible to allow rapid selection.

See, Shneiderman, p. 5, first column. Similarly, Mizoguchi also provides for entry of names and events via freestyle text. Neither of these references refers to **groups**. They certainly do not describe selection of group event types or persons that are based upon a group to which the archiving user is a member. Claim 1, therefore, is not obvious over this art. Claims 1-27 are allowable.

Note also that Shneiderman's direct annotation process is directed to a very limited application – identifying people that appear in photographs. Shneiderman has no teaching or suggestion that permits an operator to index other digital media items, such as music files or other sound recordings. The present invention provides a more comprehensive solution that permits members of a group to contribute multiple digital media items to a common archiving system and index them according to the collective memory of the group. Consider, by way of example, a group consisting of members of a common graduating class from high school. The present invention permits operators to archive files representing music from school dances or

sound recordings of commencement speeches in addition to mere photographs. Additionally, under the present invention, a photograph may be linked to a person even if the person does not appear in the photo. Again, as noted, the designation of event types and people are linked to the **group** experience. None of the prior art teaches or suggests this subject matter in any respect.

### **Claims 58-65 Define Over Shneiderman and Astle**

Pending claims 58-65 also define over the cited art. For example, claim 58 states:

58. A media archival method, comprising, under control of an operator who is a member of a group:  
authenticating an operator ***as a member of a group of users,***  
identifying candidate identification values ***based upon the group with whom the operator is authenticated,***  
querying the operator for selection of identification data to be associated with a digital media item, the query identifying the candidate identification values and ***including valid selections of an event type and persons from the group*** and time,

The Office Action asserts that Shneiderman discloses this subject matter, as opposed to Astle. Applicants respectfully disagree. As noted above, Shneiderman discloses no log on process whatsoever. Indeed, the undersigned reviewed the entire Shneiderman reference and found no reference to **groups** whatsoever. Although Shneiderman discloses drag-and-drop operations performed against a list of previously-used names, there is no disclosure to indicate that these names are associated with any group with whom the operator is authenticated. As described to the examiner in the May 2004 interview, this is a basic premise underlying the inventors' episodic memory system.

Note further that Shneiderman describes issues that might occur when multiple users operate on the same photos:

Another interesting issue is collaborative annotation in which multiple users working side-by-side or independently might annotate photos and then the results could be combined, with appropriate resolution of conflicts. Tools for finding variant spellings or switches between last and first names would help raise data quality. Shneiderman, p. 6, first column.

If Shneiderman truly taught the subject matter recited above in claim 58, there would be no need for such conflict resolution. If it truly provided a query to an operator that identifies candidate identification values, issues regarding variant spelling would be avoided because they would be included in the prompt. These issues remain in his system, of course, because Shneiderman does not teach or suggest this subject matter.

Independent claim 62 recites similar authentication and querying steps as recited in claim 58. As discussed above, the cited art does not teach or suggest this subject matter. Accordingly, claims 58-65 are allowable over the prior art.

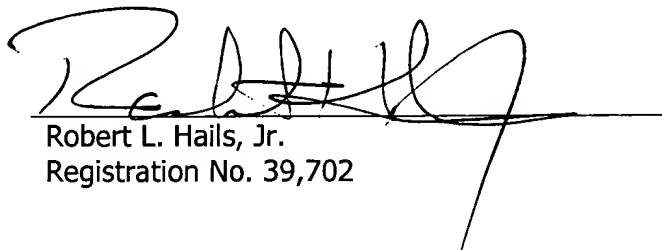
### **NEW CLAIMS**

The application presents new claims 66-67 for consideration, which define further inventive features of the present invention. Claim 66, for example, recites identifying a social group to which an archiving user belongs and a query that identifies event types and persons previously registered as associated with the social group. Claim 67 includes similar recitations. None of the prior art teaches or suggests this subject matter.

In view of the foregoing, Applicants respectfully request allowance of the application.

Respectfully submitted,

Date: July 15, 2005



Robert L. Hails, Jr.  
Registration No. 39,702

KENYON & KENYON  
1500 K Street, N.W.  
Washington, D.C. 20005  
Ph.: (202) 220-4200  
Fax.: (202) 220-4201